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9 EDEN SURGICAL CENTER,  
10 a California medical corporation

11 UNITED STATES DISTRICT COURT  
12 CENTRAL DISTRICT OF CALIFORNIA

13 EDEN SURGICAL CENTER, a  
14 California medical corporation,

15 Plaintiff,

16 v.

17 TENET HEALTHCARE  
18 CORPORATION, C/O TENET  
19 BENEFITS ADMINISTRATION  
20 COMMITTEE, in its capacity as plan  
21 administrator; TENET BENEFITS  
22 ADMINISTRATION COMMITTEE

23 Defendant.

Case No. CV09-07156-FMO

**FIRST AMENDED COMPLAINT  
FOR DISCLOSURE AND  
STATUTORY PENALTY FOR  
FAILURE TO DISCLOSE PLAN  
DOCUMENTS UNDER THE  
EMPLOYEES RETIREMENT  
INCOME SECURITY ACT OF 1974**

**29 U.S.C. §1132(a)(1)(A)  
[Disclosure Penalty]**

24 Plaintiff Eden Surgical Center respectfully alleges as follows:

25 1. Plaintiff Eden Surgical Center (“Eden”) at all times mentioned herein, was  
26 and is a California medical corporation conducting business in the County of Los  
27 Angeles, State of California.

28 2. Eden is informed and believes, and on that basis alleges, that defendant  
Tenet Healthcare Corporation, c/o Tenet Benefits Administration Committee (“THC”),

1 at all times mentioned herein, was and is an entity that can be found in the County of  
2 Los Angeles, State of California.

3 3. Eden is informed and believes, and on that basis alleges, that defendant  
4 Tenet Benefits Administration Committee ("Tenet"), in its capacity as the plan  
5 administrator, at all times mentioned herein, was and is a corporation with a group  
6 employee welfare benefit plan that can be found and is administered in the County of  
7 Los Angeles, State of California.

8 4. The jurisdiction of this Court is proper under 29 U.S.C. §1132(e), as this is  
9 a civil action under Section 502 of the Employees Retirement Income Security Act of  
10 1974 ("ERISA"). All statutory references are to ERISA, which is codified at Title 29.

11 5. The venue of this action in this Court is proper under 29 U.S.C.  
12 §1132(e)(2), as the Tenet Employee Benefit Plan, *infra*, may be found, and is  
13 administered, in California's Central Judicial District, in the County of Los Angeles,  
14 State of California.

### 15 **Eden's Standing**

16 6. Eden hereby sues Tenet derivatively, appearing before this Court as the  
17 assignee of its patient, plan participant Gloria Elequin (the "Plan Participant"), and not  
18 as an independent suitor. As a derivative suitor, Eden stands in the shoes of its  
19 assignor, and invokes the jurisdiction of the Court to enforce the Plan Participant's  
20 ERISA rights.

21 7. Subject matter jurisdiction of this Court is proper under 28 U.S.C. §1331,  
22 as Eden presents a colorable claim under ERISA.

23 8. Eden reserves, and does not hereby waive its right, to pursue additional  
24 relief against Tenet in the future under 29 U.S.C. §1132(a)(1)(B).

### 25 **The Plan and the Administration Thereof**

26 9. Eden is informed and believes, and thereon alleges that Tenet has a group  
27 employee welfare benefit plan entitled the Tenet Employee Benefit Plan (the "Plan").  
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1           18. Thus, PC issued an adverse benefit determination on Eden's claim by  
2 failing to respond to Eden's request for information.

3                                   **Eden's Document Production Demand**

4           19. On or about June 8, 2009, Eden demanded, in writing, that Tenet produce  
5 the contracts, agreements and documents under which the Plan is established and/or  
6 operated and relating to the adverse benefit determination at issue (the "Documents"),  
7 pursuant to 29 U.S.C. §1024(b)(4) and 29 C.F.R. §2560-501 paragraphs (g), (h) and  
8 (m).

9           20. In response, Tenet claimed that PC had never received the medical records  
10 that were sent to PC in December of 2006. Eden then provided Tenet and PC with  
11 copies of the documents Eden disclosed to PC in December of 2006.

12           21. Tenet subsequently produced the Tenet Employee Benefit Plan, the PC  
13 Certificate of Coverage and the PC Schedule of Benefits, but failed and refused to  
14 produce any additional documents, notwithstanding Eden's request.

15           22. On August 25, 2009, PC issued an Explanation of Benefits ("EOB") which  
16 stated Eden's claim was ineligible. PC's notice stated "claims must be submitted within  
17 the timely filing limit in order to be paid. Your timely filing limit may be based on any  
18 of the following: provider contract, certificate, and/or state law(s)".

19           23. As of the date this Complaint was filed, Tenet has failed and refused to  
20 produce the additional Documents relating to the operation of the Plan which would  
21 allow Eden to understand the ineligibility and ultimate denial notice.

22           24. Based on Tenet's conduct, Eden has been denied the opportunity to know  
23 exactly where it stands with respect to the Plan and the operation thereof regarding the  
24 claims administration for medical services provided to the Plan Participant.

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**FIRST CAUSE OF ACTION**  
**FOR DISCLOSURE AND PENALTIES FOR FAILURE**  
**TO DISCLOSE THE DOCUMENTS IN VIOLATION OF**  
**29 U.S.C. §1024(b)(4) AND 29 C.F.R. §2560.503.1.**

25. Eden realleges and incorporates herein by this reference paragraphs 1 through 24, inclusive, of this Complaint.

26. As an ERISA fiduciary and administrator of the Plan, Tenet had a duty to provide complete disclosure of the Documents upon the written request from Eden, and if necessary, to obtain such documents from its subordinate claims administrator.

27. Tenet breached this disclosure duty by failing and refusing to produce all of the required Documents after receiving Eden's written request, in violation of 29 U.S.C. §1024(b)(4) and 29 C.F.R. §2560.503-1 paragraphs (g), (h) and (m).

28. Tenet's failure to produce the Documents denied Eden the opportunity to know exactly where it stands with respect to the Plan and the operation thereof regarding the claims administration for medical services provided to the Plan Participant identified herein, and thus necessitated the filing of this action.

29. Accordingly, Tenet should be ordered to produce the requested Documents under 29 U.S.C. §1024(b)(4) and 29 C.F.R. §2560.503-1 paragraphs (g), (h) and (m). Further, Tenet should be subject to the statutory penalty prescribed by 29 U.S.C. §1132(c), in the amount of \$110.00 dollars per day commencing on July 9, 2009, through and including the date judgment is entered in this action, or the date that the requested Documents are received, whichever comes first.

30. In addition, Eden should be awarded its reasonable attorneys' fees incurred in this action, pursuant to 29 U.S.C. §1132(g)(1).

**PRAYER**

**WHEREFORE**, plaintiff Eden Surgical Center prays for judgment against defendant Tenet Benefits Administration Committee as follows:

**ON THE FIRST CAUSE OF ACTION**

1  
2 1. For an order or judgment of the Court compelling this defendant's  
3 immediate production of all Documents requested by Eden, in accordance with 29  
4 U.S.C. §1024(b)(4) and 29 C.F.R. §2560.503-1 paragraphs (g), (h) and (m);

5 2. For an award of the statutory penalty due under 29 U.S.C. §1132(c) in the  
6 amount of \$110.00 dollars per day for the claim at issue, commencing on July 9, 2009,  
7 through and including the date judgment is entered in this action, or the date that the  
8 requested Documents are received, whichever comes first;

9 3. For an award of Eden's attorneys' fees incurred in this action, pursuant to  
10 29 U.S.C. §1132(g)(1);

11 4. For an award of plaintiff Eden Surgical Center's costs of suit incurred  
12 herein; and

13 5. For such other and further relief as the Court deems just and proper.

14 Dated: March 16, 2010

THE JEWETT LAW GROUP, INC.

15  
16 By: /S/ Bradley E. Jewett

17 BRADLEY E. JEWETT  
18 Attorneys for Plaintiff  
19 Eden Surgical Center  
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